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10 KNOWLEDGESTORM, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION
13

14 JASBIR GILL, MAHMOUD
KEDKAD,

15 Plaintiffs,

16 v.

17 KNOWLEDGESTORM, INC., a
18 corporation, DOES 1through 50,

19 Defendants.
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Case No. C 07-04112 PVT

**DEFENDANT
KNOWLEDGESTORM, INC.'S
NOTICE OF UNTIMELY
OPPOSITION BY PLAINTIFF
KEDKAD TO ITS MOTION FOR
SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT ;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: June 3, 2008
Time 10:00 a.m.
Crtrm: 5, 4th floor

Action filed: July 13, 2007
Trial date: August 4, 2008

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that defendant KnowledgeStorm, Inc.

("Defendant") hereby submits the following notice of untimely opposition in support of its motion for summary judgment or, in the alternative, partial summary judgment against plaintiff Mahmoud Kedkad ("Plaintiff").

Dated: May 20, 2008

FORD & HARRISON LLP

By: /s/ Steven M. Kroll

Jeffrey D. Mokotoff
Steven M. Kroll
Attorneys for Defendant
KNOWLEDGESTORM, INC.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. DEFENDANT'S MOTION SHOULD BE GRANTED**

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4 Oppositions to motions for summary judgment must comply with Civil Local
5 Rules 7-2 and 7-3. (Civ. L. R. 56-1.) Pursuant to Local Rule 7-3, subsection (a),
6 any opposition to a motion for summary judgment must be served and filed not less
7 than 21 days before the hearing date. (Civ. L. R. 7-3.)

8
9 Here, Defendant's motion for summary judgment is noticed for hearing on
10 June 3, 2008. Accordingly, Plaintiff's opposition was due May 13, 2008. Plaintiff
11 did not file or serve its motion until May 20, 2008, the date Defendant's reply is
12 due.

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14 Because Plaintiff's opposition is late, it should be disregarded. Where no
15 factual showing is made in opposition to a motion for summary judgment, the Court
16 may rely entirely on the evidence designated by the moving party in showing no
17 triable issue. Carmen v. San Francisco Unified School Dist., (9th Cir. 2001) 237
18 F.3d 1026, 1029. Accordingly, Defendant requests that the Court rely on the
19 evidence designated by it and grant its motion as set forth in the moving papers.
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1 **II. CONCLUSION**

2 Defendant respectfully requests that the Court disregard Plaintiff's untimely
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4 opposition to its motion for summary judgment and grant the motion in its entirety.
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6 Dated: May 20, 2008

FORD & HARRISON LLP

7
8 By: /s/ Steven M. Kroll
9 Jeffrey D. Mokotoff
10 Steven M. Kroll
11 Attorneys for Defendant
12 KNOWLEDGESTORM, INC.
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PROOF OF SERVICE

I, Yolanda Dennison, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 350 South Grand Avenue, Suite 2300, Los Angeles, California 90071. On May 20, 2008, I served a copy of the within document(s):

**DEFENDANT KNOWLEDGESTORM, INC.'S NOTICE
OF UNTIMELY OPPOSITION BY PLAINTIFF KEDKAD
TO ITS MOTION FOR SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, PARTIAL SUMMARY
JUDGMENT; MEMORANDUM OF POINTS AND
AUTHORITIS**

☒ by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.

Brian S. Kreger, Esq.

Lamerto & Kreger

160 W. Santa Clara St., Suite 1050

San Jose, CA 95113

Attorney for Plaintiffs

Phone: (408) 999-0300

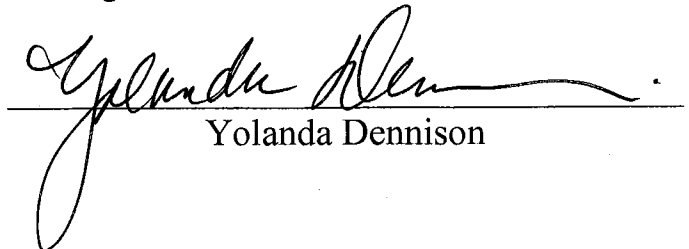
Fax: (408) 999-0301

briank#lambertokreger.com

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on May 20, 2008, at Los Angeles, California.


Yolanda Dennison